

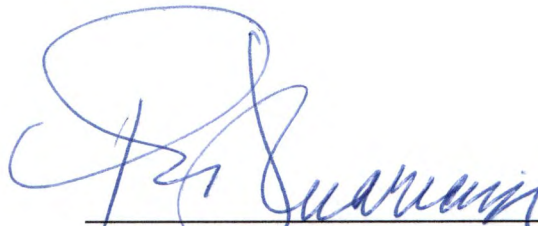
IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GARY WALKER,	:	Civil No. 3:21-cv-2167
	:	
Plaintiff	:	(Judge Mariani)
	:	
v.	:	
	:	
CHCA MERRITT-SCULLY, <i>et al.</i> ,	:	
	:	
Defendants	:	

**ORDER**

**AND NOW**, this 6<sup>th</sup> day of December, 2022, upon consideration of the motion (Doc. 14) to dismiss by Defendant Diamond Pharmacy, and for the reasons set forth in the accompanying Memorandum, **IT IS HEREBY ORDERED THAT:**

1. The motion (Doc. 14) is **GRANTED** in part and **DENIED** in part.
2. Defendant Diamond Pharmacy's motion to dismiss the Eighth Amendment claim is **GRANTED**.
3. Defendant Diamond Pharmacy's motion to dismiss Plaintiff's medical malpractice claim for failure to file a certificate of merit is **DENIED** without prejudice to refiling upon compliance with PA. R. CIV. P.1042.6.
4. Any appeal from this Order is **DEEMED** frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).



Robert D. Mariani  
United States District Judge